

23.02.2022
Court No. 19
Item no.19
CP

WPA 1796 of 2022

Arijit Banerjee

Vs.

The Kolkata Municipal Corporation & Ors.

Ms. Debjani Sengupta

Ms. Koyel Bag

Ms. S. Haque

Mr. Abhijit Chatterjee

..for the petitioner.

Mr. Biswajit Mukherjee

Ms. Paushali Banerjee

....for the K.M.C.

The writ petitioner is aggrieved by several notices issued by the Kolkata Municipal Corporation (hereinafter referred to as 'the corporation'), demanding enhanced property tax. The petitioner submits that such enhanced value was claimed on the basis of an order passed by the hearing officer upon assessment of the property tax at a enhanced rate. It is submitted by the petitioner that the said order was never served upon the petitioner and, as such, the petitioner could not prefer the statutory appeal under the law.

The question raised by the petitioner is whether without offering an opportunity to the petitioner to prefer the statutory appeal, the Corporation can raise the bills and also threaten to

attach the property and the rent payable to the petitioner. Communication was sent to the petitioner's tenant.

Reliance is placed on a decision dated January 19, 2021, of this court in the matter of Smt. Anuradha Chaudhuri vs. The Kolkata Municipal Corporation in W.P.O. No. 186 of 2020. This Court was of the view that question of filing the statutory appeal would have arisen only if copies of the order were received by the petitioner. In this case, as the orders were not received, the question of filing an appeal did not arise.

Mr. Mukherjee, learned advocate appearing on behalf of the corporation, submits that the order of the hearing officer was passed sometime in 2017. That the petitioner never prayed for a copy of the order. More than five years have passed since the order of the hearing officer and the petitioner was heard on several occasions pursuant to the demand notices.

Be that as it may, these are issues to be decided by the learned appellate tribunal under the law. Whether the assessment was correct, whether the hearing officer passed his orders upon consideration of relevant factors and the decisions of this court and the Hon'ble Apex Court are all

questions which shall be decided by the learned appellate tribunal.

The corporation is directed to supply a copy of the order of the hearing officer to the petitioner within two weeks from date, if applied for within next two days.

The petitioner shall prefer an appeal within three weeks from receipt of the copy of the said order and be at liberty to pray for interim protections. The tribunal shall hear out the appeal and the application in accordance with law, at least on the point of interim order.

No coercive measure on the basis of the notices impugned before this court shall be taken by the corporation for a period of three months. If within that time, the petitioner is not granted any interim protection by the learned tribunal, the corporation can proceed on the basis of the notices issued.

The tenant who is the proforma respondent herein shall not act upon the notices of the corporation for a period of three months.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)